

REMARKS

This amendment is submitted in response to the non-final Office Action mailed December 12, 2007 ("Office Action"). After entry of this amendment, claims 25-40 will be pending. Claim 25 is independent.

Rejection Under 35 U.S.C. § 103

Claims 25-40 are rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 5,713,853 to Clark et al. ("Clark") in view of U.S. Patent No. 6,364,856 to Ding et al. ("Ding"). This rejection is respectfully traversed.

Independent claim 25 recites a medical device comprising a "delivery member . . . shaped in a continuous solid cylindrical configuration." As the Examiner conceded, Clark does not disclose a "delivery member . . . shaped in a continuous solid cylindrical configuration." (Office Action at 2.) Rather, as described in the specification and seen in Figures 24-25 of Clark, there are gaps between the ribs. Further, for the following reasons, it would not be obvious to a person having ordinary skill in the art to modify the device of Clark to contain a delivery member shaped in a continuous solid cylindrical configuration, because Clark teaches away from such a configuration.

First, in discussing the prior art, Clark faults devices which "can . . . block the perfusion of blood distal to the delivery site, depriving tissue of needed blood." (Col. 1, lines 49-51; *see also* col. 1, lines 66-67.) One reason this is a problem is that it "limits the amount of time available for drug delivery." (Col. 1, lines 51-52.) Clark therefore is directed to a device "which could deliver drugs proximate the walls of the vessel *without blocking blood flow*." (Col. 2, lines 47-49 (emphasis added).) To that end, Clark discloses that in its device, "[w]hen flared, the drug delivery members . . . are separated by sufficient space to allow for significant perfusion of blood between the members." (Col. 6, lines 60-62; *see also* col. 9, lines 62-63; col. 14, lines 38-39.) The device of Clark requires such a structure because it "increases the possible length of surgical procedures, without requiring perfusion means which can increase the complexity of the use and manufacture of the catheter." (Col. 6, lines 62-65.) Modifying the device of Clark to contain a delivery member with a continuous solid cylindrical configuration would block blood flow, contrary to an express feature and purpose of the device disclosed in Clark.

Moreover, the ribs in the device depicted in Figures 24-25 of Clark are intentionally designed to allow the device to serve as "a thrombolytic filter." (Col. 13, lines 45-49.) Clark explains: "Blood or other fluids can flow through the region defined by the ribs 706. Thrombolytic material greater than the distance between the ribs will be caught by the ribs." (Col. 14, lines 38-40.) Thus, in order for the device of Clark to operate as intended, blood must be able to flow past the delivery member. If the device is modified to contain a delivery member with a continuous solid cylindrical configuration, it would no longer serve the intended purpose of acting as a filter.

Consequently, it would not be obvious to one having ordinary skill in the art to modify the device of Clark to contain a delivery member with a continuous solid cylindrical configuration. In particular, it would not be obvious to modify Clark to contain the delivery member of Ding. Therefore, Applicants respectfully request that the rejection of independent claim 25 be withdrawn. Because dependent claims 26-40 depend from independent claim 25, Applicants respectfully request that the rejection of claims 25-40 be withdrawn for at least the same reasons that the rejection of independent claim 25 should be withdrawn.

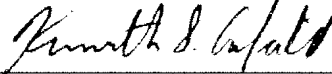
CONCLUSION

It is believed that claims 25-40 are in condition for allowance. Should the Examiner not agree with any of Applicants' positions or arguments herein, a telephonic or personal interview is respectfully requested to discuss and resolve any remaining issues.

No fee is believed due for this response. Should any fee(s) be due at this time, please charge such fee(s) to Jones Day Deposit Acct. No. 50-3013.

Date: March 5, 2008

Respectfully submitted,



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